

AMENDED IN SENATE JUNE 10, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2242**

**Introduced by Assembly Member Koretz**  
**(Principal coauthor: Assembly Member Wesson)**

**(Coauthor: Assembly Member Aroner)**

**(Coauthors: Assembly Members Aroner, Cedillo, Keeley, Nation,  
and Shelley)**

**(Coauthors: Senators Alarcon, Kuehl, and Romero)**

February 20, 2002

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~~An act to amend Section 1197.1 of, and to add Section 1182.10 to,~~  
*An act to add Section 1182.10 to the Labor Code, relating to wages.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2242, as amended, Koretz. Payment of wages.

Existing law requires establishment of a minimum wage for all industries of not less than \$5.75 per hour on and after March 1, 1998.

This bill would adjust the hourly minimum wage on January 1, 2003, and annually thereafter, to maintain employee purchasing power. The automatically adjusted minimum wage would be calculated using the ~~federal~~ *California* Consumer Price Index, as specified. The Industrial Welfare Commission would be required to publicize the automatically adjusted minimum wage.

This bill would provide that its provisions may not be construed to preclude an increase in the minimum wage greater than the formula would provide or to result in a reduction in the minimum wage.

~~Existing law prohibits an employer or other person acting either individually or as an officer, agent, or employee of another person, from paying or causing to be paid to an employee a wage less than the minimum fixed by an order of the Industrial Welfare Commission. Existing law imposes, for any initial violation that is intentionally committed by an employer or that person, a civil penalty of \$50 for each underpaid employee for each pay period for which the employee is underpaid.~~

~~This bill would increase the amount of the civil penalty that may be imposed to \$75.~~

~~Existing law imposes, for any subsequent violation of the same specific offense, a civil penalty of \$250 for each underpaid employee for each day period for which the employee is underpaid, regardless of whether the initial violation is intentionally committed.~~

~~This would increase the amount of the civil penalty for subsequent violations to \$300.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1182.10 is added to the Labor Code, to  
2 read:

3 1182.10. (a) The minimum wage is automatically adjusted  
4 on January 1 of each year to maintain employee purchasing power  
5 diminished by the rate of inflation that occurred during the  
6 previous year.

7 (b) The automatically adjusted minimum wage is calculated by  
8 multiplying the minimum wage in effect on December 31 by the  
9 percentage of inflation that occurred during the previous year, and  
10 rounding off the sum to the nearest five cents (\$0.05). The  
11 Industrial Wage Commission shall publicize the automatically  
12 adjusted minimum wage.

13 (c) For purposes of this calculation, the following terms have  
14 the following meanings:

15 (1) "Percentage of inflation" means the percentage of inflation  
16 ~~specified in the federal Consumer Price Index for urban wage~~  
17 ~~earners and clerical workers, as published by the United States~~  
18 ~~Department of Labor, or its successor index. specified in the~~  
19 *California Consumer Price Index for All Urban Consumers, as*

1 *published by the California Department of Industrial Relations,*  
2 *Division of Labor Statistics and Research, or its successor index.*

3 (2) “Previous year” means the 12-month period that ends on  
4 ~~September 4~~ *August 31* of the calendar year prior to the  
5 adjustment.

6 (d) This section may not be construed to either preclude an  
7 increase of the minimum wage by the Industrial Wage  
8 Commission in an amount that is greater than the rate calculated  
9 pursuant to subdivision (b) or result in a reduction in the minimum  
10 wage.

11 (e) The first automatic adjustment to the minimum wage shall  
12 occur on January 1, 2003.

13 ~~SEC. 2.—Section 1197.1 of the Labor Code is amended to read:~~  
14 ~~1197.1. (a) Any employer or other person acting either~~  
15 ~~individually or as an officer, agent, or employee of another person,~~  
16 ~~who pays or causes to be paid to any employee a wage less than the~~  
17 ~~minimum fixed by an order of the commission shall be subject to~~  
18 ~~a civil penalty as follows:~~

19 ~~(1) For any initial violation that is intentionally committed,~~  
20 ~~seventy-five dollars (\$75) for each underpaid employee for each~~  
21 ~~pay period for which the employee is underpaid.~~

22 ~~(2) For each subsequent violation for the same specific offense,~~  
23 ~~three hundred dollars (\$300) for each underpaid employee for each~~  
24 ~~pay period for which the employee is underpaid regardless of~~  
25 ~~whether the initial violation is intentionally committed.~~

26 ~~(b) If, upon inspection or investigation, the Labor~~  
27 ~~Commissioner determines that a person has paid or caused to be~~  
28 ~~paid a wage less than the minimum, the Labor Commissioner may~~  
29 ~~issue a citation to the person in violation. The citation may be~~  
30 ~~served personally or by registered mail in accordance with~~  
31 ~~subdivision (c) of Section 11505 of the Government Code. Each~~  
32 ~~citation shall be in writing and shall describe the nature of the~~  
33 ~~violation, including reference to the statutory provision alleged to~~  
34 ~~have been violated. The Labor Commissioner promptly shall take~~  
35 ~~all appropriate action, in accordance with this section, to enforce~~  
36 ~~the citation and to recover the civil penalty assessed in connection~~  
37 ~~with the citation.~~

38 ~~(c) If a person desires to contest a citation or the proposed~~  
39 ~~assessment of a civil penalty therefor, the person shall, within 15~~  
40 ~~business days after service of the citation, notify the office of the~~

~~Labor Commissioner that appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed.~~

~~The decision of the Labor Commissioner shall consist of a notice of findings, findings, and an order, all of which shall be served on all parties to the hearing within 15 days after the hearing by regular first class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court. The party shall pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within 45 days of service of the notice of findings, findings, and order thereon.~~

~~(d) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.~~

~~(e) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, a certified copy of the citation or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.~~

~~(f) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of these findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall~~

1 ~~enter judgment for the state against the person assessed in the~~  
2 ~~amount shown on the certified order.~~

3 ~~(g) A judgment entered pursuant to this section shall bear the~~  
4 ~~same rate of interest and shall have the same effect as other~~  
5 ~~judgments and be given the same preference allowed by the law~~  
6 ~~on other judgments rendered for claims for taxes. The clerk shall~~  
7 ~~make no charge for the service provided by this section to be~~  
8 ~~performed by him or her.~~

9 ~~(h) The civil penalties provided for in this section are in~~  
10 ~~addition to any other penalty provided by law.~~

11 ~~(i) This section shall not apply to any order of the commission~~  
12 ~~relating to household occupations.~~

